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In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-1057

RICHARD A. BELANGER,
PETITIONER,

v.

ARTHUR B. MATTESON and
WARWICK TEACHERS UNION, LOCAL 915,
AFT, AFL-CIO,
RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF RHODE ISLAND

REPLY BRIEF FOR PETITIONER

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The Petitioner feels that it is necessary to respond to certain misstatements of fact contained in the "Statement" of the case as presented in Respondent's brief.

Most importantly, on Page 4, the Respondent states: "Venditto testified that at no time did Belanger inquire about or advise him that he wanted an attorney present

at the hearing. He never said or advised Belanger that he did not need an attorney." Respondent's assertion is a misstatement of the testimony of Mr. Venditto. On cross-examination, when asked whether or not Belanger did inform Venditto that his nephew was an attorney and that he would like him present to represent him at the hearing, the following colloquy took place:

> "Q. Did you say it was within the realm of possibility that he may have asked you?
> "A. Yes, I think I said that."

In other words, the record stands that Belanger testified that he asked Venditto about retaining counsel and Venditto indicated that Belanger may have made such a request. Since Mr. Venditto handles many grievances, it is obvious that Belanger's recollection on this particular matter might be better than that of Mr. Venditto.

The Respondent's brief makes it appear that Matteson pursued each and every step of the grievance alone. However, the facts as found by the trial judge in paragraph 5 of the judgment of the Superior Court (page A-49 of Petitioner's Brief) are that the Union in fact pursued each and every step of the grievance on Matteson's behalf.

In addition, the Respondents would have the Court believe that the Union acted fairly with respect to Mr. Belanger. In fact, they argued that Belanger never made a request to the Union which was not granted. This is not the case, however, as Belanger testified otherwise. But, nevertheless, the trial judge found, which finding was affirmed by the Supreme Court of Rhode Island, that the Union did, in fact, breach its duty to fairly represent Belanger. It is uncontradicted that they did not treat him properly throughout the grievance procedure. The

very issue in this case centers on the facts that the Union denied the Petitioner fair representation; and without such representation, the arbitration proceeding could not be a fair and equitable one. As stated in detail in Petitioner's brief, without being a party and having proper representation, the Petitioner was denied due process of law with respect to the promotional position and the case should be reviewed by the Supreme Court of the United States.

Respectfully submitted,

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